

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
Newark Vicinage**

RAY ALLEN LUENSE, PAMELA PEARSON,
DANIEL F. SETTNEK and NEIL ROSE,
individually and as representatives of a class of
participants and beneficiaries on behalf of the
Konica Minolta 401(k) Plan,

Plaintiffs,

v.

KONICA MINOLTA BUSINESS SOLUTIONS
U.S.A., INC., BOARD OF DIRECTORS OF
KONICA MINOLTA BUSINESS SOLUTIONS
U.S.A., INC., KONICA MINOLTA 401(K)
PLAN COMMITTEE, SANDRA SOHL, SUSAN
MCCARTHY, and JOHN DOES 1-30,

Defendants.

Civ. No. 2:20-cv-06827 (JMV-MF)

NOTICE OF MOTION

Motion Date: June 11, 2021

TO: Philip W. Crawford
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Attorneys for Defendants

PLEASE TAKE NOTICE that on June 11, 2021, at 9:00 a.m., or as soon thereafter as counsel may be heard, Plaintiffs, by and through their undersigned counsel, shall move before the United States District Court for the District of New Jersey for an Order granting their Motion for Leave to File Additional Supplemental Authority.

PLEASE TAKE FURTHER NOTICE that said Motion is attached to this Notice.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order accompanies this Motion.

PLEASE TAKE FURTHER NOTICE that, in support of said Motion, and also in reply in support of their previously-filed Motion for Leave to File Supplemental Authority (ECF No. 46), Plaintiffs submit herewith Plaintiffs' Reply Memorandum in Support of Their Motion for Leave to File Supplemental Authority and Plaintiffs' Memorandum in Support of Their Motion for Leave to File Additional Supplemental Authority.

Dated: May 9, 2021

Respectfully submitted,

/s/Eric Lechtzin

Eric Lechtzin

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Plaintiffs' Motion for Leave to Submit Additional Supplemental Authority

Motion Date: June 11, 2021

Hon. John Michael Vazquez

Plaintiffs' Motion for Leave to Submit Additional Supplemental Authority

Plaintiffs, by and through their attorneys, respectfully move this Court for leave to file additional supplemental authority in support of their Opposition to Defendants' Motion to Dismiss Complaint with Prejudice (ECF No. 23). In support of this Motion, Plaintiffs state as follows:

1. On August 25, 2020, Defendants filed a Notice of Motion to Dismiss Complaint with Prejudice (ECF No. 23). Plaintiffs filed their Opposition to Defendants' Motion to Dismiss Complaint on October 6, 2020 (ECF No. 35). Defendants filed their Reply Memorandum in Further Support of their Motion to Dismiss on October 20, 2020 (ECF No. 38). Subsequently, Plaintiffs filed three notices of supplemental authorities regarding different court decisions

(“Plaintiffs’ Prior Notices”; ECF Nos. 40, 43, 46). On May 5, 2021, Defendants filed Defendants’ Opposition to Plaintiffs’ Motion for Leave to File Supplemental Authority (ECF No. 47), which addressed the last of Plaintiffs’ Prior Notices, ECF No. 46. As of this filing, the Court has not yet ruled on the Motion to Dismiss.

2. Subsequent to the filing of Plaintiffs’ Prior Notices, on May 4, 2021, Judge Wigenton of this Court denied defendants’ motion to dismiss in yet another ERISA case bearing marked similarities to the present case, *In re Quest Diagnostics Incorporated ERISA Litigation*, C.A. No. 20-07936-SDW-LDW (D.N.J.). *Quest* involves substantially similar facts as those alleged in this case, and it addresses questions raised by Defendants in the Motion to Dismiss currently pending before this Court, including those related to Article III standing and the adequacy of Plaintiffs’ allegations to sustain a violation of ERISA’s duty of prudence.

3. Given the similarity of facts and issues presented, Plaintiffs request leave to submit *Quest* as supplemental authority in their opposition to Defendants’ Motion to Dismiss.

4. In support of Plaintiffs’ Motion for Leave to File Additional Supplemental Authority, and also in reply to Defendants’ Opposition (ECF No. 47) to the last of Plaintiffs’ Prior Notices (ECF No. 46), Plaintiffs submit herewith Plaintiffs’ Reply Memorandum in Support of Their Motion for Leave to File Supplemental Authority and Plaintiffs’ Memorandum in Support of Their Motion for Leave to File Additional Supplemental Authority.

WHEREFORE, Plaintiffs respectfully request that the Court enter an Order granting leave to submit as supplemental authority on May *In re Quest Diagnostics Incorporated ERISA Litig.*, C.A. No. 20-07936-SDW-LDW (D.N.J. May 4, 2021) (attached as Exhibit 1 hereto), in support of their Opposition to Defendants’ Motion to Dismiss Complaint with Prejudice.

Dated: May 9, 2021

Respectfully submitted,

/s/Eric Lechtzin
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